

Order

Michigan Supreme Court
Lansing, Michigan

May 4, 2007

Clifford W. Taylor,
Chief Justice

132780

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 132780
COA: 273818
Calhoun CC: 06-001931-FH

ANTHONY LITTLE HAMBLIN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 30, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration, as on leave granted, of whether the trial court erred in scoring 10 points for serious psychological injury under MCL 777.34(1)(a). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

CORRIGAN, J., concurs and states as follows:

Ten points should be scored for offense variable (OV) 4, under MCL 777.34(1)(a), if a victim suffers “serious psychological injury” that “may require professional treatment.” MCL 777.34(2). “[T]he fact that treatment has not been sought is not conclusive.” MCL 777.34(2). I note *People v Apgar*, 264 Mich App 321, 329 (2004), in which the Court of Appeals stressed that the victim need not actually receive treatment for purposes of OV 4. There, the ten point score for OV 4 was supported by the victim’s testimony that she was “fearful” during the encounter. *Id.* Here, at the preliminary examination, the victim attested that defendant’s behavior “was traumatic to me.” The record also reveals apparent domestic violence in the course of defendant’s relationship with the victim, as is evident in the circumstances of the offense. Accordingly, I would request that, on remand, the Court of Appeals address *Apgar* in its opinion.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 4, 2007

Corbin R. Davis

Clerk